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EXAMINER

LE, TUAN H

ART UNIT

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2622

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,239

Applicant(s)

SHIBUTANI, ATSUSHI

Examiner

Tuan H. Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 9, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☒ Claim(s) 1 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

Claims 1 and 28 are objected to because of the following informalities:

In claim 1, line 14 of page 34, "means" should be changed to "unit".

In claim 28, ":" after data should be changed to ";".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and

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the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim(s) 26 and 27 is/are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claims 26 and 27 defines computer programs embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). That is, the scope of the presently claimed computer programs can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, "*the recording medium in which the image data that meets the predetermined condition has been stored*" has been previously selected by the medium-selecting unit. Also, "the recording medium" **is the same as** the "the one of the recording media", referring to parent claim 14. Therefore, it is vague and

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indefinite to *“determine(s) whether or not the recording medium...is the one of the recording media selected by the medium-selecting unit.”*

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, 12-18, 20, 22, 24,25, 28, and 29 are rejected under 35

U.S.C. 102(e) as being anticipated by Kubo et al (USPat. 6,570,614). Hereinafter

Kubo et al is shortened as Kubo.

Regarding **claim 1**, Kubo discloses an image-pickup apparatus (Kubo, Fig. 1 and Fig. 2) comprising:

an input unit (switch 43) which receives an instruction from a user (Kubo, column 5 lines 33-42, wherein shutter chance mode is selected);

an image-pickup unit (13) which takes a picture of a subject to obtain image data (Kubo, column 5 line 54, wherein CCD is used);

a medium-selecting unit (switch 45) which selects one of recording media in accordance with the instruction received by the input unit, (Kubo, column 10 lines1-7, wherein a recording medium is selected for use in shutter chance mode), the one of the recording media recording image data which meets a predetermined condition (macro mode, portrait mode, or sport mode), (Kubo, column 5 lines 47-50, column 9 lines 36-56, and column 10 line 48-52, wherein a combination among recording modes and photographic conditions can be made); and

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a recording control unit (microcomputer 16) which records in the one of the recording media selected by the medium-selecting means (45) the image data which meets the predetermined condition, (Kubo, column 6 lines 41-48, wherein image data from ccd 13 is recorded).

Regarding **claim 2**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

a condition-selecting unit (switch 43) which selects a condition among plural conditions (macro mode, portrait mode, and sport mode) in accordance with the instruction (shutter chance mode) received by the input unit (switch 43), (Kubo, column 9 lines 31-54, wherein switch 43 is used in shutter chance mode); and wherein

the medium-selecting unit (switch 45) selects a recording medium (21) among the recording media (memory card 21, memory card 21 and memory card of another camera, and recording medium of an external apparatus) in accordance with the instruction (shutter chance mode) received by the input unit (switch 43), the recording medium (21) recording image data which meets the condition selected by the condition-selecting unit (switch 43) , (Kubo, column 10 lines 1-7, wherein there are choices of memory), and

the recording control unit (microcomputer 16) records the image data which meets the condition selected by the condition-selecting unit in the recording medium selected by the medium-selecting unit, (Kubo, column 6 lines 41-48, wherein image data is recorded in memory 21).

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Regarding **claim 3**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

a storing unit (inherent part of microcomputer 16) which stores information indicative of a relationship between the recording medium to be selected by the medium-selecting unit (45) and the predetermined condition, (Kubo, column 6 lines 41-48, wherein microcomputer 16 performs photographing and recording of images, thus interfaces information must exist), and wherein

the recording control unit (microcomputer 16) records the image data which meets the predetermined condition (macro, portrait, or sport mode) in the recording medium (21) specified based on the information of the relationship stored in the storing unit (inherent part of microcomputer 16), (Kubo, column 6 lines 41-48, wherein microcomputer 16 performs photographing and recording of images, thus interface information must exist).

Regarding **claim 4**, Kubo teaches the image-pickup apparatus of claim 3. In addition, Kubo discloses

a condition-selecting unit (switch 43) which selects a condition among plural conditions (macro, portrait, and sport mode) in accordance with the instruction (shutter chance mode) received by the input unit (switch 43), (Kubo, column 9 lines 31-54, wherein switch 43 is used in shutter chance mode), and wherein

the medium-selecting unit (switch 45) selects a recording medium (21) among the plural recording media (memory card 21, memory card 21 and memory card of another camera, and recording medium of an external apparatus) in accordance with

the instruction (shutter chance mode) received by the input unit (switch 43), the recording medium (21) recording image which meets the condition selected by the condition selecting unit (switch 43), (Kubo, column 10 lines 1-7, wherein there are choices of memory)

the storing unit (inherent part of microcomputer 16) stores information indicative of a relationship between the recording medium (21) to be selected by the medium-selecting unit (switch 45) and the condition selected by the condition-selecting unit (switch 43), (Kubo, column 6 lines 41-48, wherein microcomputer 16 performs photographing and recording of images, thus interfaces information must exist), and

the recording control unit (microcomputer 16) records, in the recording medium (21) specified based on the information of the relationship stored in the storing unit, the image data which meets the condition (macro, portrait, or sport mode) specified based on the information of the relationship stored in the storing unit (inherent part of microcomputer 16), (Kubo, column 6 lines 41-48, wherein microcomputer 16 performs photographing and recording of images, thus interface information must exist).

Regarding **claim 5**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

a mode-setting unit (switch 43) which sets one of plural photographing modes (single-exposure mode, continuous exposure mode, and shutter chance mode), (Kubo, column 5 lines 33-42), and wherein

the image-pickup unit (ccd 13) takes a picture of the subject in one of the photographing modes (Kubo, Fig. 5, step 214),

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the medium-selecting unit (switch 45) selects one of the plural recording media in accordance with the instruction (shutter chance mode) received by the input unit, (Kubo, column 10 lines 1-7, wherein a recording medium 21 is selected for use in shutter chance mode), the one of the plural recording media (21) recording image data obtained by the image-pickup unit in a predetermined photographing mode set by the mode-setting unit (Kubo, column 5 lines 47-50, column 9 lines 36-56, and column 10 line 48-52, wherein a combination among recording modes and photographic conditions can be made), and

the recording control unit (microcomputer 16) records the image data obtained by the image-pickup unit (13) in the predetermined photographing mode set by the mode-setting unit (switch 43) in the recording medium (21) selected by the medium-selecting unit (switch 45), (Kubo, Fig. 5, Fig. 8, and column 6 lines 41-48, wherein image data from ccd 13 is recorded in accordance with the shutter chance mode and recording medium selection).

Regarding **claim 6**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

the medium-selecting unit (switch 45) selects a recording medium (21) from among the plural recording media (memory card 21, memory card 21 and memory card of another camera, and recording medium of an external apparatus) in accordance with the instruction received by the input unit (switch 43), (Kubo, column 10 lines 1-7, wherein there are choices of memory), the recording medium recording image data

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including a predetermined subject (close subject, portrait, or fast moving object), (Kubo, column 5 lines 33-42), and

the recording control unit (microcomputer 16) records the image data obtained by the image-pickup unit including the predetermined subject in the recording medium selected by the medium-selecting unit, (Kubo, Fig. 5, Fig. 7, Fig. 8, and column 5 lines 47-50, column 9 lines 36-56, and column 10 line 48-52, wherein a combination among recording modes and photographic conditions can be made).

Regarding **claim 7**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

the medium-selecting unit (switch 45) selects a recording medium (21) from among the plural recording media (memory card 21, memory card 21 and memory card of another camera, and recording medium of an external apparatus) in accordance with the instruction received by the input unit (switch 43), the recording medium recording image data including a predetermined photographing condition, (Kubo, column 5 lines 33-42, wherein there are macro mode, portrait mode, and sport mode), and

the recording control unit (microcomputer 16) records the image data obtained by the image-pickup unit including the predetermined photographing condition in the recording medium selected by the medium-selecting unit (Kubo, Fig. 5, Fig. 7, Fig. 8, and column 5 lines 47-50, column 9 lines 36-56, and column 10 line 48-52, wherein a combination among recording modes and photographic conditions can be made).

Regarding **claim 8**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

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a determining unit (inherent part of microcomputer 16) which determines whether or not a recording medium has been selected by the medium-selecting unit, (Kubo, Fig. 7, Fig. 8, and column 10 line 48-53, wherein only photographic condition setting based on photographic mode is performed), and wherein

when the determining unit (inherent part of microcomputer 16) determines that the recording medium has not been selected (only photographic mode is involved), the recording control unit (microcomputer) records the image data which meets the condition in a predetermined recording medium (21), (Kubo, Fig. 2, wherein memory card 21 is the only means to record image data for the camera).

Regarding **claim 9**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

the recording media comprise a detachable recording medium (21), (Kubo, Fig. 2 and column 10 lines 1-7, wherein card driver 22 interfaces memory card 21).

Regarding **claim 10**, Kubo teaches the image-pickup apparatus of claim 9. In addition, Kubo discloses

a determining unit (inherent part of microcomputer 16) which determines whether or not the detachable recording medium has been installed, (Kubo, Fig. 2, wherein microcomputer 16 interfaces with card driver 20), when the recording medium selected by the medium-selecting unit is the detachable recording medium (Kubo, Fig. 8, wherein memory card 21 and memory card of another camera are selected), and wherein

when the determining unit (inherent part of microcomputer 16) determines that the detachable recording medium has not been installed, the recording control unit

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(microcomputer 16) records the image data which meets the predetermined condition in a recording medium other than the detachable recording medium (memory card of another computer), (Kubo, Fig. 2 and Fig. 8, wherein IrDA 24 interfaces with another electronic camera).

Regarding **claim 12**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

an outputting unit (microcomputer 16 and interface 22) which sends the image data obtained by the image-pickup unit (ccd 13) to an external device (personal computer) having a recording medium which is one of the plural recording media, (Kubo, Fig. 2, Fig. 8, and column 6 line15-18, wherein the camera is connected to a personal computer).

Regarding **claim 13**, Kubo teaches the image-pickup apparatus of claim 1. In addition, Kubo discloses

the recording media comprise different types of recording media, (Kubo, column 10 lines 1-7, wherein three different types of memory are described).

Regarding **claim 14**, Kubo discloses an image recording apparatus (Kubo, Fig. 1 and Fig. 2) arranged for using plural recording media, comprising:

a recording medium (RAM 17) storing image data;

an input unit (switch 43) which receives an instruction from a user (Kubo, column 5 lines 33-42, wherein shutter chance mode is selected);

a medium-selecting unit (switch 45) which selects one of recording media in accordance with the instruction received by the input unit (Kubo, column 10 lines1-7,

wherein a recording medium is selected for use in shutter chance mode), the one of the recording media recording the image data which is stored in the recording medium and meets a predetermined condition (macro mode, portrait mode, or sport mode), (Kubo, column 5 lines 47-50, column 9 lines 36-56, and column 10 line 48-52, wherein a combination among recording modes and photographic conditions can be made); and a recording control unit (microcomputer 16) which records the image data which is stored in the recording medium (RAM 17) and meets the predetermined condition in the recording medium selected by the medium-selecting unit, (Kubo, column 6 lines 10-12 and column 8 lines 27-29, wherein images in RAM 17 are recorded on a recording medium such as external computer memory).

Regarding **claim 15**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

a determining unit (inherent part of microcomputer 16) which determines whether or not the recording medium in which the image data that meets the predetermined condition has been stored is the one of the recording media selected by the medium-selecting unit, (Kubo, Fig. 2, Fig. 8, and column 10 lines 1-7, wherein memory of an external computer is used); and wherein

when the determining unit (inherent part of microcomputer 16) determines that the recording medium (memory of an external computer) in which the image data meeting the predetermined condition has been stored is not the one of the recording media selected by the medium-selecting unit, the recording control unit (microcomputer 16) records the image data which meets the predetermined condition in the one of the

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recording media (memory card) selected by the medium-selecting unit, (Kubo, Fig. 2, wherein memory card is the default memory for the image pickup apparatus).

Regarding **claim 16**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

a condition-selecting unit (switch 46) which selects a condition among plural conditions in accordance with the instruction (shutter chance mode) received by the input unit, (Kubo, Fig. 1, column 8 lines 53-58, and column 10 lines 48-53, wherein a combination of photographic condition is performed); and wherein

the medium-selecting unit (switch 45) selects a recording medium among the recording media, the recording medium recording image data which meets the condition selected by the condition-selecting unit (Kubo, Fig. 1, column 8 lines 53-58, and column 10 lines 1-7 and 48-53, wherein a combination of photographic conditions is performed),

the recording control unit (microcomputer 16) records the image data which meets the condition selected by the condition-selecting unit in the recording medium selected by the medium-selecting unit, (Kubo, column 6 lines 41-48, wherein microcomputer 16 performs recording).

Regarding **claim 17**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

a storing unit (inherent part of microcomputer 16) which stores information indicative of a relationship between the recording medium to be selected by the medium-selecting unit (memory interface) and the predetermined condition

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(compression information), (Kubo, Fig. 1, Fig. 2, column 6 lines 53-58, wherein microcomputer 16 stores the related information), and wherein

the recording control unit (microcomputer 16) records the image data which meets the predetermined condition in the recording medium specified based on the information indicative of the relationship and stored in the storing unit, (Kubo, column 6 lines 41-48, wherein microcomputer 16 performs recording).

Regarding **claim 18**, Kubo teaches the image-pickup apparatus of claim 17. In addition, Kubo discloses

18. The image recording apparatus according to claim 17, further comprising:

a condition-selecting unit (switch 46) which selects a condition among plural conditions (compression rates) in accordance with the instruction received by the input unit (Kubo, Fig. 1, column 8 lines 53-58, and column 10 lines 48-53, wherein a combination of photographic condition is performed); and wherein

the medium-selecting unit (switch 45) selects a recording medium among the plural recording media in accordance with the instruction received by the input unit, the recording medium recording the image data which meets the condition selected by the condition-selecting unit, the storing unit stores information indicative of a relationship between the recording medium to be selected by the medium-selecting unit and the condition selected by the condition-selecting unit (Kubo, Fig. 1, column 8 lines 53-58, and column 10 lines 1-7 and 48-53, wherein a combination of photographic conditions is performed), and

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the recording control unit (microcomputer 16) records, in the recording medium specified based on the information of the relationship stored in the storing unit, the image data which meets the condition specified based on the information of the relationship stored in the storing unit (Kubo, column 6 lines 41-48, wherein microcomputer 16 performs recording).

Regarding **claim 20**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

the medium-selecting unit (switch 45) selects a recording medium from among the recording media in accordance with the instruction received by the input unit, the recording medium recording image data including a predetermined subject (Kubo, column 9 lines 30 – column 10 lines 53, wherein shutter chance mode the second and third photographic condition can be combined), and

the recording control unit (microcomputer 16) records the image data obtained by the image-pickup unit and including the predetermined subject in the recording medium selected by the medium-selecting unit (Kubo, column 9 lines 30 – column 10 lines 53, wherein shutter chance mode the second and third photographic condition can be combined).

Regarding **claim 22**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

the recording media comprise a detachable recording medium (21), (Kubo, Fig. 2 and column 10 lines 1-7, wherein card driver 22 interfaces memory card 21).

Regarding **claim 24**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

outputting unit (microcomputer 16 and interface 22) for sending the image data stored in the recording medium to an external device(personal computer) having a recording medium which is one of the plural recording media (Kubo, Fig. 2, Fig. 8, and column 6 line15-18, wherein the camera is connected to a personal computer).

Regarding **claim 25**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

the recording media comprise different types of recording media, (Kubo, column 10 lines 1-7, wherein three different types of memory are described).

Regarding **claim 28**, Kubo disclose an image-pickup method comprising:

obtaining image data (RAM 17);

selecting a recording medium from among plural recording media in accordance with instruction given by a user, the recording medium recording image data which meets a predetermined condition (optimum or nearly optimum moment), (Kubo, column 10 lines 1-7, wherein selection of memory is performed);

selecting image data which meets the predetermined condition from among the obtained image data (Kubo, column 12 line 26, wherein optimum or nearly optimum image data is selected); and

recording the selected image data in the selected recording medium (Kubo, column 12 line 60, wherein selected image data is compressed and stored).

Regarding **claim 29**, Kubo disclose an image recording method comprising:

selecting a recording medium from among plural recording media in accordance with instruction given by a user, the recording medium recording image data which meets a predetermined condition (optimum or nearly optimum moment), (Kubo, column 10 lines 1-7, wherein selection of memory is performed);

selecting image data which meets the predetermined condition from among plural image data stored in a recording medium (Kubo, column 12 line 26, wherein optimum or nearly optimum image data is selected); and

recording the selected image data in the selected recording medium (Kubo, column 12 line 60, wherein selected image data is compressed and stored).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 and 23 is rejected under 35 U.S.C. 103(a) as obvious over Kubo et al (USPat. 6,570,614). Hereinafter Kubo et al is shortened as Kubo.

Regarding claim 11, Kubo teaches the image-pickup apparatus of claim 1. However, Kubo does not disclose that the recording media comprises an internal recording medium.

On the other hand, it would have been obvious to an artisan to implement an internal memory unit into the image-pickup apparatus as described by Kubo in order to

store image data because such implementation eliminates the burden of carrying along an external memory unit, thus increases versatility for the image-pickup apparatus.

Regarding **claim 23**, Kubo teaches the image-pickup apparatus of claim 14. However, Kubo does not disclose that the recording media comprises an internal recording medium.

On the other hand, it would have been obvious to an artisan to implement an internal memory unit into the image-pickup apparatus as described by Kubo in order to store image data because such implementation eliminates the burden of carrying along an external memory unit, thus increases versatility for the image-pickup apparatus.

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo (USPat. 6,570,614) and further in view of Watanabe (U.S. 7,027,171).

Regarding **claim 19**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

the medium-selecting unit (switch 45) selects one of the recording media in accordance with the instruction received by the input unit (switch 43) for recording image data, (Kubo, column 10 lines 1-7, wherein a recording medium is selected for use in shutter chance mode), and

the recording control unit (microcomputer 16) records the image data in one of the recording media selected by the medium-selecting unit (Kubo, column 6 lines 10-12 and column 8 lines 27-29, wherein images in RAM 17 are recorded on a recording medium such as external computer memory).

However, Kubo does not disclose that the image data includes photographing-mode information.

On the other hand, Watanabe discloses that the image data includes photographing-mode information, (Watanabe, Fig. 2, wherein an image file contains compressed image data and header which has information of mode of photography).

Therefore, it would have been obvious to an artisan to incorporate the image data as described Watanabe into the image data as described by Kubo as such the image data includes photographing-mode information because such incorporation results in efficient compression of image data on the basis of photographing mode information, (Watanabe, column 1 lines 34-37).

Regarding **claim 21**, Kubo teaches the image-pickup apparatus of claim 14. In addition, Kubo discloses

the medium-selecting unit (switch 45) selects one of the recording media in accordance with the instruction received by the input unit (switch 43), the one of the recording media recording image data including a predetermined photographing information, (Kubo, column 10 lines 1-7, wherein a recording medium is selected for use in shutter chance mode), and

the recording control unit (microcomputer 16) records the image data in one of the recording media selected by the medium-selecting unit (Kubo, column 6 lines 10-12 and column 8 lines 27-29, wherein images in RAM 17 are recorded on a recording medium such as external computer memory).

However, Kubo does not disclose that the image data includes photographing information.

On the other hand, Watanabe discloses that the image data includes photographing information, (Watanabe, Fig. 2, wherein an image file contains compressed image data and header which has information of mode of photography).

Therefore, it would have been obvious to an artisan to incorporate the image data as described Watanabe into the image data as described by Kubo as such the image data includes photographing-mode information because such incorporation results in efficient compression of image data on the basis of photographing mode information, (Watanabe, column 1 lines 34-37).

Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo (USPat. 6,570,614) and further in view of Koyama et al (U.S. Pat. 6,237,106).

Regarding **claim 26**, Kubo discloses a microcomputer in an image-pickup apparatus which obtains plural image data, comprising:

the microcomputer (microcomputer 16) to select image data which meets a predetermined condition (macro mode, portrait mode, or sport mode) from among the plural image data, (Kubo, column 5 lines 47-50, column 9 lines 36-56, and column 10 line 48-52, wherein a combination among recording modes and photographic conditions can be made);

the microcomputer (microcomputer 16) to select a recording medium from among plural recording media in accordance with instruction given by a user, the recording

medium recording the selected image data, (Kubo, column 10 lines 1-7, wherein a recording medium is selected for use in shutter chance mode); and

the microcomputer (microcomputer 16) to record the selected image data in the selected recording medium, (Kubo, column 6 lines 41-48, wherein image data from ccd 13 is recorded).

However, Kubo does not disclose that a computer program comprising program code for controlling a computer in an image-pickup apparatus.

On the other hand, Koyama et al discloses a microcomputer with storage medium for storing software program codes realizing microcomputer's functions, (see Koyama et al, column 10 lines 42-56, wherein program code is stored on microcomputer-readable medium).

Therefore, it would have been obvious to an artisan to implement the stored program code as described by Koyama et al into the microcomputer as described by Kubo such that the program code controls the functions of the microcomputer because such implementation increases versatility for the image-pickup apparatus and reduces user interaction with the image-pickup apparatus.

Regarding **claim 27**, Kubo discloses a microcomputer in an image recording apparatus with a recording medium in which plural image data are stored, comprising:

the microcomputer (microcomputer 16) to select image data which meets a predetermined condition from among the plural image data stored in the recording medium, (Kubo, column 5 lines 47-50, column 9 lines 36-56, and column 10 line 48-52,

wherein a combination among recording modes and photographic conditions can be made);

the microcomputer (microcomputer 16) to select a recording medium from among plural recording media in accordance with instruction given by a user, the recording medium recording the selected image data (Kubo, column 10 lines1-7, wherein a recording medium is selected for use in shutter chance mode); and

the microcomputer (microcomputer 16) to record the selected image data in the selected recording medium, (Kubo, column 10 lines1-7, wherein a recording medium is selected for use in shutter chance mode).

However, Kubo does not disclose that a computer program comprising program code for controlling a computer in an image-pickup apparatus.

On the other hand, Koyama et al discloses a microcomputer with storage medium for storing software program codes realizing microcomputer's functions, (see Koyama et al, column 10 lines 42-56, wherein program code is stored on microcomputer-readable medium).

Therefore, it would have been obvious to an artisan to implement the stored program code as described by Koyama et al into the microcomputer as described by Kubo such that the program code controls the functions of the microcomputer because such implementation increases versatility for the image-pickup apparatus and reduces user interaction with the image-pickup apparatus.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takahashi (U.S. Pat. 5,067,029) discloses an electronic still camera in which as a recording medium, for example, at least either one of a semiconductor memory, an optical memory, and a magnetic memory is selected so as to record a video signal therein.

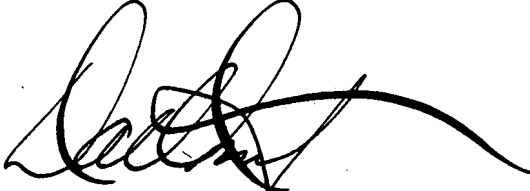
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Le whose telephone number is (571) 270-1130. The examiner can normally be reached on M-Th 7:30-5:00 F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Tuan Le/
7/13/2007



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